

(H. B. 1369)

**(No. 211-2014)**

(Approved December 16, 2014)

## **AN ACT**

To amend subsection (a) of Section 4030.12 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to establish by law that any containers and safety lids, labels, and bags essential for the sale of prescription drugs shall be exempt from the sales and use tax.

### **STATEMENT OF MOTIVES**

Act No. 1-2011 established the “Internal Revenue Code for a New Puerto Rico,” which regulates all that pertains to the revenues and taxes of the Commonwealth of Puerto Rico.

Such Act sets forth the provisions on the implementation of the sales and use tax in Puerto Rico. Section 4030.12 of said Act provided for the exemption of prescription drugs for human consumption from the payment of such tax.

Upon the approval of said Act, there was some controversy on whether the exemption provided in Section 4030.12 included the safety containers and labels that are essential to sell such prescription drugs. For such reason, the Department of the Treasury submitted an opinion through a letter dated January 22, 2012, upon request from the Community Pharmacies Association. Such letter addressed the application of the sales and use tax (SUT) to the containers and labels that are necessary to sell prescription drugs. Moreover, the then Deputy Secretary of the Treasury stated in said letter that, in accordance with the interpretation of Sections 4030.12 and 4010.01 (tt)(2), “containers and labels that are essential for the sale of prescription drugs are not subject to the payment of SUT.”

Subsequently, this Government Administration passed Act No. 40-2013 which established the “Tax Burden Redistribution and Adjustment Act.” Said statute amended Section 4030.12 to clarify the language of said provision. However, said language left out any reference to the exemption on safety containers and lids that are essential for the sale of prescription drugs from said tax.

It has been brought to our attention that distributors of these products (containers and safety lids used to pack prescription drugs) are collecting the sales and use tax on the sale thereof. This has an adverse effect on the price that patients have to pay for their prescription drugs.

Therefore, this Legislative Assembly deems it meritorious and imperative to approve this measure in order to establish clearly and specifically by law that containers and safety lids, labels, bags, and any other similar item that is essential for the sale of prescription drugs shall be exempt from the sales and use tax. We must bear in mind that Section 4010.01 provides that the term “use”:

[...] do not include materials, containers, labels, sacks, bags, or similar items that accompany the product sold to a purchaser without which delivery of the product would be impossible due to the nature of the contents, and that is used only once for packing taxable items or for the convenience of the purchaser.

This is the case of prescription drugs. Hence, it is important to clarify once and for all that no sales and use tax shall be collected on account of containers and safety lids, labels, and bags that are essential for the sale of prescription drugs.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Subsection (a) of Section 4030.12 of Act No. 1-2011, as amended, is hereby amended to read as follows:

“Section 4030.12.– Exemption on Prescription Drugs.-

(a) Drugs for human consumption that may be acquired solely and exclusively by medical prescription (known as ‘Rx products’), including containers and safety lids, labels, and bags that are essential for the sale of prescription drugs shall be exempt from taxation under this Subtitle.

(b) ...

(c) ...”

Section 2.– The Secretary of the Department of the Treasury shall modify any regulations as necessary to implement the provisions of this Act within a term of ninety (90) days as of the effective date thereof.

Section 3.– Effectiveness

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 211-2014 (H. B. 1369)** of the **4<sup>th</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to amend subsection (a) of Section 4030.12 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to establish by law that any containers and safety lids, labels, and bags essential for the sale of prescription drugs shall be exempt from the sales and use tax.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 16<sup>th</sup> day of November, 2016.

Juan Luis Martínez Martínez  
Director